

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24

FILED BY CLERK

OCT 27 2011

COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

THE STATE OF ARIZONA,)	2 CA-CR 2011-0188-PR
)	DEPARTMENT A
Respondent,)	
)	<u>MEMORANDUM DECISION</u>
v.)	Not for Publication
)	Rule 111, Rules of
AARON JOSEPH BISHOP,)	the Supreme Court
)	
Petitioner.)	
_____)	

PETITION FOR REVIEW FROM THE SUPERIOR COURT OF PINAL COUNTY

Cause No. S1100CR99026103

Honorable Gilberto V. Figueroa, Judge

REVIEW DENIED

Thomas C. Horne, Arizona Attorney General
By Paul E. Carter

Tucson
Attorneys for Respondent
State of Arizona

Aaron Joseph Bishop

Coolidge
In Propria Persona

E C K E R S T R O M, Presiding Judge.

¶1 Petitioner Aaron Bishop seeks review of the trial court’s order denying his petition for post-conviction relief, filed pursuant to Rule 32, Ariz. R. Crim. P. Because Bishop has been released from custody, the petition is dismissed as moot.

¶2 Pursuant to a plea agreement, Bishop was convicted of child molestation based on his having had sexual intercourse with a fourteen-year-old girl. The trial court imposed a mitigated, ten-year sentence, to be served “day-for-day” or as “flat time.” It also imposed a term of community supervision “to be served consecutively to the actual period of imprisonment.”

¶3 Bishop initiated a proceeding for post-conviction relief, and the trial court summarily denied relief, as did this court on review. *State v. Bishop*, No. 2 CA-CR 2004-0051-PR (decision order filed Jan. 12, 2005). When Bishop’s sentence expired in April 2010, he “signed his conditions of supervision and was released” from imprisonment, subject to a term of community supervision of one year and five months. Shortly thereafter, Bishop filed a “[m]otion to deny com[m]unity supervision that was not stipulated in plea agreement,” citing Rule 31.19(a), Ariz. R. Crim. P., and arguing that he had not “stipulated” to a term of community supervision in his plea agreement. The court summarily denied that motion, but before it did so Bishop absconded from supervision. Bishop was arrested and returned to custody and thereafter initiated the instant post-conviction relief proceeding, raising a claim that he was “being held in custody after the sentence imposed ha[d] expired,” under Rule 32.1(d).

¶4 In his petition and in a subsequent petition for writ of habeas corpus, he asserted that after his release from prison, he “was made to do community supervision”

despite having served a “flat-time” sentence, and that “parole, probation or community supervision was not part of [his] plea.” After a hearing, the trial court denied the writ and “all relief” Bishop had requested. Bishop sought review in this court, but was released from custody and all supervision during the pendency of the review. Bishop’s claim therefore is moot, and we deny review and dismiss the petition. *Cf. State v. Hartford*, 145 Ariz. 403, 405, 701 P.2d 1211, 1213 (App. 1985) (“[W]hen an entire sentence has been served prior to consideration of that sole issue on appeal, the validity of its imposition is a moot question.”).

/s/ *Peter J. Eckerstrom*

PETER J. ECKERSTROM, Presiding Judge

CONCURRING:

/s/ *J. William Brammer, Jr.*

J. WILLIAM BRAMMER, JR., Judge

/s/ *Virginia C. Kelly*

VIRGINIA C. KELLY, Judge